

भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खंड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 33] नई दिल्ली, शुक्रवार, अगस्त 14, 1970/श्रावण 23, 1892
No. 33] NEW DELHI, FRIDAY, AUGUST 14, 1970/ SRAVANA 23, 1892

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 14th August, 1970:—

BILL No. 72 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970.
2. In article 74 of the Constitution,—

(i) For clause (1), the following clause shall be substituted, namely:—

“74. (1) There shall be a Council of Ministers, not exceeding 25 in number, with the Prime Minister at the head to aid and advise the President in the exercise of his functions, except in so far as he is, by or under this Constitution, required to exercise his functions or any of them in his discretion.”;

(ii) clause (2) shall be re-numbered as clause (3) and before clause (3) as so re-numbered, the following new clause shall be inserted, namely:—

“(2) If any question arises whether any matter is or is not a matter as respects which the President is, by or under this

Short
title.
Amend-
ment of
article
74.

Constitution, required to act in his discretion, the decision of the President in his discretion shall be final, and the validity of anything done by the President shall not be called in question on the ground that he ought or ought not to have acted in his discretion.”

3. After article 74 of the Constitution, the following new articles shall be inserted, namely:—

“Advisory Council

74A. There shall be set up an Advisory Council which may be consulted by the President on all matters in which he is required by this Constitution to act in his discretion.

74B. The Advisory Council shall consist of the following members:—

(1) *ex-officio members*: the Prime Minister, the Deputy Prime Minister, if any, the Chief Justice of the Supreme Court, the Speaker of Lok Sabha, the Chairman of Rajya Sabha, the Leader of the Opposition in Lok Sabha, the Leader of Opposition in Rajya Sabha and the Attorney-General of India;

(2) every person willing to act as a member who had held office of the President, or the office of the Prime Minister, or the Office of the Chief Justice of the Supreme Court;

(3) such other persons, if any, as may be appointed by the President to be members.

74C. The President may, at any time, by warrant under his hand and seal appoint such other persons as in his discretion he may think fit to be members of the Advisory Council, but not more than five persons so appointed shall be members of the Advisory Council at the same time.

74D. Every member of the Advisory Council appointed by the President, unless he previously dies, resigns, becomes permanently incapacitated, or is removed from office, shall hold office until the successor of the President by whom he was appointed has entered upon his office.

74E. Any member of the Advisory Council appointed by the President may resign from office by writing under his hand addressed to the President.

74F. The President may, for reasons which to him seem sufficient, by an order under his hand and seal, terminate the appointment of any member of the Advisory Council appointed by him.

Insertion
of new
Articles
74A,
74B, 74C,
74D, 74E,
74F, 74G
and 74H.

Setting up
of an
Advisory
Council to
advise the
President.

Composi-
tion of
the Advi-
sory
Council.

Appoint-
ment of
members
by Presi-
dent.

Term of
Office of
members
appointed
by Presi-
dent.

Resigna-
tion by
members
appointed
by Presi-
dent.

Termi-
nation
by Presi-
dent of
appoint-
ments
made by
him.

74G. Meeting of the Advisory Council may be convened by the President at such times and places as he shall determine.

Meeting
of the
Advisory
Council.

74H. The Members, other than the ex-officio members of the Advisory Council, shall receive such remuneration as the President may determine."

Remune-
ration of
mem-
bers of
the Advi-
sory Coun-
cil.

STATEMENT OF OBJECTS AND REASONS

Although under a responsible Government the head of the State acts for the most part on the advice of the Council of Ministers responsible to the Legislature, nevertheless, there are certain matters in which he is entitled to exercise his own discretion *e.g.*, in the choice of the Prime Minister when no party commands an absolute majority in the Lower House and in the dissolution of Parliament when the Prime Minister has lost confidence of the Lower House. In India, such matters as the appointment of the Judges of the Supreme Court and the High Courts, suppression of widespread disorder, superintendence, direction and control of elections may properly be added to the list of the discretionary powers of the President. Of course, it may not always be possible for the President to use his "discretionary powers". Thus a Ministry may threaten to resign if in the exercise of "discretionary power", the President overrules them; in that case, the President can do so only if he has the support of the Legislature and can get an alternative Ministry enjoying its confidence. Failing this, he can dissolve the Legislature and appeal to the electorate in such an extreme case. Thus the "discretionary powers" will at least give the President a chance of appealing to the Legislature and, in the last resort, to the people.

Hence this Bill.

NEW DELHI;

HARDAYAL DEVGUN

The 19th June, 1970.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of an Advisory Council which may be consulted by the President in regard to the discharging of those functions which fall within the ambit of his discretionary powers and also provides for payment of remuneration to the members, other than the *ex-officio* members, of the Advisory Council. This will not involve any non-recurring expenditure. But the recurring expenditure from the Consolidated Fund of India on this account is likely to be of the order of two lakh rupees during a year and this will be more than offset in view of the fact that the Bill purports to limit the size of the Council of Ministers to 25.

BILL NO. 70 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1970.

(2) It shall come into force,—

(i) in the Union territories within a period of six months from the date on which it receives the assent of the President; and

(ii) in the States on such dates as the respective State Governments may, by notification in their Official Gazettes appoint.

Insertion
of new
articles
23A, 23B
and 23C.
Right to
employ-
ment.

2. After article 23 of the Constitution, the following new articles shall be inserted, namely:—

“23A. (1) All able-bodied and willing to work citizens over the age of eighteen years shall have the right to employment.

(2) The State shall provide monetary assistance ranging from fifty to two hundred rupees per month to every unemployed citizen, commensurate with his qualifications, until a suitable employment is provided to him.

23B. (1) All children until they complete the age of fourteen years shall have the right to free education.

Right to
Educa-
tion.

(2) Education shall be compulsory for all children until they have completed the age of fourteen years.

23C. The State shall provide monetary assistance to every citizen who has completed the age of sixty years, or remains chronically sick, or is permanently incapacitated or disabled and has nothing to fall back upon and is unable to fend for himself."

Right to
public
assis-
tance
in cases
of old
age,
sickness
and
disable-
ment.

STATEMENT OF OBJECTS AND REASONS

Article 41 of the Constitution enjoins upon the State to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement. Similarly article 45 of the Constitution enjoins upon the State to provide for free and compulsory education for all children upto the age of 14 years. But these rights are only in the nature of Directive Principles of State Policy. They are not justiciable and there is no legal sanction behind them. The Directive Principles of State Policy enshrine a charter of hopes and aspirations which if not redeemed before long will subject the Constitution itself to a process of attrition, place its fundamental values in jeopardy and sap its moral vitality, its resilience and its *raison v. d'être*. The State cannot, in fairness and good conscience by its neglect, inaction or omission allow the dilution or diminution of the Directive Principles which it has been directed to preserve and forbidden to infringe. The Bill seeks to give legal effect to what is contained in articles 41 and 45 and make those rights justiciable and Fundamental Rights. Unless these rights are clothed with legal sanction, they will remain nugatory and of no significance as hitherto they have been.

Hence this Bill.

NEW DELHI;
The 25th June, 1970.

HARDAYAL DEVGUN.

FINANCIAL MEMORANDUM

The Bill provides for the payment of monetary assistance in cases of old age, unemployment, sickness and disablement and also for free education to children upto the age of 14 years. It is not possible to give the exact estimate of the amount of recurring expenditure, but a sum not exceeding fifty lakhs of rupees is likely to be spent from the Consolidated Fund of India annually in respect of the Union territories. The Bill will not involve any non-recurring expenditure. Expenditure in respect of the States will be met by the State Governments.

BILL NO. 68 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India **as follows:—**

Short title
and
commence-
ment,

Substitu-
tion of
article 370.

Extension
of laws
made by
Parliament
to Jammu
and
Kashmir.

1. (1) This Act may be called the Constitution (Amendment) Act, 1970.
- (2) It shall come into force at once.

2. For article 370 of the Constitution, the following article shall be substituted, namely,

“370. (1) The State shall not make any express exception in any of its laws with respect to the extension of that law to the State of Jammu and Kashmir and any law made in contravention of this clause shall, to the extent of contravention, be void.

(2) All laws in force in the territory of India immediately before the commencement of this Act, in so far as they are inconsistent with the provision of clause (1), shall, to the extent of inconsistency, be void.”

STATEMENT OF OBJECTS AND REASONS

Article 370 of the Constitution confers on the State of Jammu and Kashmir a special status *vis-a-vis* the other States of the Union. This is repugnant to the very concept of democracy. This article has precluded the citizens of the said State from enjoying rights at par with the people of the other States and consequently engendered in them feeling of isolation. This Bill seeks to put an end to the anomalous position which has continued so far.

NEW DELHI;
The 24th June, 1970.

HARDAYAL DEVGUN.

S. L. SHAKDHER,
Secretary.

